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In re Application of HALBERT et al :
U.S. Application No.: 10/577,778 :
PCT Application No.: PCT/GB2004/004560 : DECISION
Int. Filing Date: 28 October 2004 :
Priority Date Claimed: 28 October 2003 :
Attorney Docket No.: 031749/311275 :
For: IMPROVEMENTS IN CELL GROWTH :

This is in response to applicant's "Amendment, Petition, and Fee to Add to Originally Named Inventor (37 C.F.R. § 1.48(a) and/or (c))" filed 08 January 2007, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 28 October 2004, applicant filed international application PCT/GB2004/004560, which claimed priority of an earlier United Kingdom application filed 28 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 26 May 2005. The thirty-month period for paying the basic national fee in the United States expired on 28 April 2006.

On 28 April 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 15 December 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 08 January 2007, applicant filed an executed declaration along with the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

A review of the declaration reveals that it lists the same inventive entity as that shown in the international application publication WO 2005/047490 A3 (copy attached).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED AS MOOT.

The application has an International Filing Date under 35 U.S.C. 363 of 28 October 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 January 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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(81) Designated States (unless otherwise indicated, for every kind of national protection available): AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.

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WO 2005/047490 A3

(54) Title: IMPROVEMENTS IN CELL GROWTH

(57) Abstract: The present invention relates to use of peptide containing and peptide free synthetic low density lipoprotein (sLDL) particles as cell growth supplements for the growth of eukaryotic cells, especially mammalian.